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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,530	01/28/2000	Duane J. Pontbriand	60.158-107	2373

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EXAMINER

NOLAN, SANDRA M

ART UNIT PAPER NUMBER

1772

DATE MAILED: 12/26/2002

18

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-18

Office Action Summary

Application No.

09/493,530

Applicant(s)

PONTBRIAND ET AL.

Examiner

Sandra M. Nolan

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-8 and 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Withdrawal of Finality

1. The finality of the office action dated 23 September 2002 (Paper No. 15) is hereby withdrawn in order to apply the new grounds of rejection hereinbelow.

Entry of Proposed Amendment

2. The amendment proposed in the response to Paper No. 15, which response was entered on 16 December 2002 (Paper No. 16) has been entered.

Drawings

3. The drawings submitted on 16 December 2002 (Paper No. 17) have been approved by the USPTO draftsman.

Claims

4. Pursuant to entry of the amendment in Paper No. 16, claims 4-8 and 10-20 are pending.

Rejection Withdrawn

5. The 35 USC 103 rejection of claims 1, 2, 4-8, 10-14, 17-18, as unpatentable over Wong et al (US 5,178,902) in view of Tanaka et al (US 5,993,975), as set out in section 8 of the 09 April 2002 Office Action (Paper No. 13), is withdrawn in view of applicants' amendments in Paper No. 16.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 4-8, 10-12 and 13-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are dependent upon one or more cancelled claims.

Please clarify the claims.

8. Claims 15-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The order of the coating/treatment steps is confusing. Please claims the steps in successive order.

Please clarify the claims.

9. Claim 16 recites the limitation "a tube" in line 1. There is insufficient antecedent basis for this limitation in the claim because claim 15, from which claim 16 depends, claims a method of coating, not a tube.

Please clarify the claim.

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Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4-8, 10-14 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsich et al (US 5,972,450) in view of Fotiou (US 5,368,885).

Hsich teaches metal tubing (title) having a steel surface (col. 1, lines 23-25), on which a zinc (alloy) coating is placed (col. 4, lines 42+), followed by an epoxy resin layer (col. 3, lines 51+). See the coating order recited in the examples.

Hsich fails to teach the use of epoxy/thermoplastic resin combinations in its coatings or the electrodeposition of the zinc (alloy).

Fotiau teaches the powder coating of steel (col. 3, line 2) with a mixture of epoxy and thermoplastic resin particles (col. 1, lines 50-59, especially line 57). The coatings provide a sparkle finish (abstract).

In the absence of convincing objective evidence to the contrary, the use of electrodeposition to put the zinc (alloy) on the steel is deemed a matter of engineering choice.

The references are analogous because they both deal with coating metal substrates.

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It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the powder coating of Fotiou to coat the zinc-coated metal tubing of Hsich in order to give the tubing a sparkle finish.

The motivation to employ the powder coating of Fotiou to coat the tubing of Hsich is found in the Fotiou abstract, where the provision of a sparkle finish is taught.

It is deemed desirable to give the Hsich tubing a sparkle finish in order to make it more decorative.

Citation of Interest

12. Jackson et al (US 6,276,400) is cited as of interest for teaching the treatment of metal tubing with zinc (alloy) plating, followed by the application of an epoxy coating.

Response to Arguments

13. Applicant's arguments with respect to claims 4-8, 10-14 and 17-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

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If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



S. M. Nolan
Primary Examiner
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SMN/smn
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